IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2469 of 2000

to

FIRST APPEAL No 2488 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-
and
Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

SPL.LAQ OFFICER

Versus

THAKORE KESHAJI BHAYAJI

Appearance:

MR ARUN D OZA, GOVERNMENT PLEADER for Appellant No.1

MR GC MAZMUDAR for Appellant No.2

MR JM PATEL for MR AJ PATEL for Respondent

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE D.H.WAGHELA

Date of decision: 17/03/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

1. Mr. Arun D. Oza, learned Government Pleader for the appellants, Mr.J.M.Patel for Mr.A.J.Patel for the respondents-claimants.

2. This group of 20 First Appeals under Section 54 of the Land Acquisition Act, 1894 read with Section 96 of the Code of Civil Procedure is directed against the order and award dated 31.1.2000 passed by the learned 2nd Joint Civil Judge (S.D.), Mehsana in Land Acquisition Reference Cases No.158/99 to 177/99, the Land Acquisition Reference Case No.158/99 being the main case. The lands of Village Daran, Taluka Kadi were sought to be acquired for the purposes of Narmada Canal. For this purpose, the notification under Section 4 was issued on 1.8.1991 and the notification under Section 6 was issued on 27.2.1992. The Land Acquisition Officer passed the award on 23.2.1994 and determined the rate of compensation to be paid to the claimants at the rate of Rs.3.30 per sq. mtr. The claimants claimed Rs.30 per sq. mtr. and, therefore, they took the matter for Reference under Section 18 of the Land Acquisition Act and the Reference Court granted additional compensation of Rs. 24.70 per sq. mtr. making the total rate of compensation payable at Rs.28 per sq. mtr. The Reference Court relied upon the deposition of one Rajendra Harjivan Patel at Exh.13 as claimant and the previous awards at Exhs.14, 15 and 16 relating to villages Vidaj, Dudhai and Shiyapura of Taluka Kadi. In these previous awards, the notifications under Section 4 were issued on 29.8.1991 (in case of village Vidaj), on 11.12.1986 (in case of village Dudhai) and on 18.4.1991 (in case of village Shiyapura). There is no dispute between the parties that the village Dudhai Taluka Kadi is adjoining to the villages Vidaj and Shiyapura. The date of notification under Section 4 in the present case, i.e. 1.8.1991, is in close proximity with the date of notification under Section 4 in case of village Vidaj, i.e. 29.8.1991, and in case of village Shiyapura, i.e. 18.4.1991. In both these cases, when the previous awards were challenged before this Court, the High Court reduced the rate from Rs.28 to Rs.26.60 per sq. mtr. The Reference Court has also placed reliance on the Village Form No.7/12 at Exhs. 17 to 28; deposition of Shantilal Govindbhai Suthar at Exh.47 who was examined as a departmental witness and Exhs.48 to 54 showing price of the lands of village Daran.

3. It is the common case of the parties that the previous awards as aforesaid, which have been relied upon while passing the orders which are impugned in these appeals, had been challenged before this Court and this Court had reduced the rate of compensation from Rs.28 to Rs.26.60 per sq. mtr. and the award had been modified by the High Court in First Appeals Nos.1088 to 1097 of 2000 decided on 14.12.2000 and in certain other cases even thereafter.

4. Having gone through the record and having heard learned counsel for both the sides, even with regard to the comparable qualities of the lands in two cases, and the fact that the lands of village Daran is adjoining to the villages Vidaj and Shiyapura, we find that the rate of Rs.28 per sa. mtr. is required to be reduced to Rs.26.60 per sq. mtr. in these matters also. The impugned order and award dated 31.1.2000 is, therefore, modified only to the extent that the rate at which the compensation is to be paid shall be Rs.26.60 per sq. mtr. instead of Rs.28 per sq. mtr. and the award stands modified accordingly. Rest of the award would remain intact as it is.

5. All these 20 First Appeals are partly allowed to the limited extent as above with no order as to costs.

6. It is expected that the due amount of compensation, if any, shall be paid to the claimants within a period of three months from the date the certified copy of this order is produced before the concerned authorities.

Sd/-
(M.R.Calla, J.)

Sd/-
17.3.2001 (D.H.Waghela, J.)
(KMG Thilake)